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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/971,524 11/17/97 KANTER

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IM22/0824

EXAMINER

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AHMAD, N

ART UNIT	PAPER NUMBER
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1772

DATE MAILED:

08/24/99

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/971,524</b>	Applicant(s) <b>Kanter</b>
	Examiner <b>Nasser Ahmad</b>	Group Art Unit <b>1772</b>

Responsive to communication(s) filed on May 14, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1 and 3-15 is/are pending in the application.

Of the above, claim(s) 12-15 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1 and 3-11 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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(1) In the absence of any grounds of traversal for restriction requirement, the requirement is therefore deemed proper and made FINAL.

(2) Claims 1 and 4-5 are rejected under 35 USC 102(b) as being anticipated by Wentworth for reasons of record in paper no.2, paragraph -8, mailed December 14, 1998.

(3) Claims 1 and 3-9 are rejected under USC 103(a) as being unpatentable over Wentworth in view of Emerson for reasons of record in paper 2, paragraph-10.

(4) Claim 11 is rejected under 35 USC 103(a) as being unpatentable over Wentworth in view of Emerson for reasons of record in paper 2, paragraph-11.

(5) Applicant's arguments filed May 14, 1999 have been fully considered but they are not persuasive. Applicant argues that Wentworth does not address or satisfy shock absorbing properties. This is not found to be persuasive because Wentworth has the same carpet assembly structure as the instant claimed invention and hence, it should exhibit the shock absorbing properties too. Further, applicant has failed to show any evidence otherwise.

Applicant also argues that Emerson's "highly permeable" layer is, by definition, opposite to a closed cell material as taught by the applicant. This is not deemed to be convincing

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because Emerson clearly teaches that the cushion material should be closed foam plastic (col. 2, lines 8-20). Contrary to applicant's position, no such definition of the "highly permeable" layer being opposite to a closed cell material was located in instant specification as originally filed.

With regard to claim 3, the thickness is based on optimization and Wentworth's "thickness can be up to 0.5" phrase is merely a preferred embodiment.

Regarding claim 4, applicant has failed to show that the applied prior art has the impact attenuation. As for sections being portable, Emerson clearly teaches that the cushion strips are joined together by adhesive tapes to cover the entire court surface to be covered. Each of said cushion strips appear to be portable as they are carried to the site for assembling. Contrary to applicant's position, claim 6 fails to define "portable sections" as being <sup>cha</sup>  
<sub>A</sub> detachably attached and said language cannot be read into the claims for the purpose of avoiding prior art.

Further, applicant should note the in view of the above discussion, Emerson and Wentworth together renders the claims obvious over 35 USC.

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Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the claimed invention would have been anticipated or rendered obvious over the prior art of record discussed above.

(6) In addition, in view of the amendment, the following are new grounds of rejection.

(7) Claims 3-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, as stated, is found to be confusing and indefinite. It is not clear as to how the assembly provided a layer of carpet fastened in contact with the adhesive when "removable liner" is covering the adhesive.

(8) Claim 10 is free of the prior art uncovered so far.

(9) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

(10) This application contains claims 12-15 drawn to an invention nonelected with traverse in Paper No. 2. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

(11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can normally be reached on Monday-Thursday from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ellis Robinson, can be reached on (703) 308-2364. The fax phone number for the

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organization where this application or proceeding is assigned is  
(703) 305-3599.

Any inquiry of a general nature or relating to the status of  
this application or proceeding should be directed to the  
receptionist whose telephone number is (703) 308-0661.

Ahmad/JW  
8/17/99

*Nasser Ahmad*  
NASSER AHMAD  
PRIMARY EXAMINER  
GROUP 1300-1700